

110TH CONGRESS  
2D SESSION

# H. R. 5613

To extend certain moratoria and impose additional moratoria on certain Medicaid regulations through April 1, 2009.

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## IN THE HOUSE OF REPRESENTATIVES

MARCH 13, 2008

Mr. DINGELL (for himself and Mr. TIM MURPHY of Pennsylvania) introduced the following bill; which was referred to the Committee on Energy and Commerce

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## A BILL

To extend certain moratoria and impose additional moratoria on certain Medicaid regulations through April 1, 2009.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Protecting the Med-  
5 icaid Safety Net Act of 2008”.

6 **SEC. 2. MORATORIA ON CERTAIN MEDICAID REGULATIONS.**

7 (a) EXTENSION OF CERTAIN MORATORIA IN PUBLIC  
8 LAW 110–28.—Section 7002(a)(1) of the U.S. Troop  
9 Readiness, Veterans’ Care, Katrina Recovery, and Iraq

1 Accountability Appropriations Act, 2007 (Public Law  
2 110–28) is amended—

3 (1) by striking “prior to the date that is 1 year  
4 after the date of enactment of this Act” and insert-  
5 ing “prior to April 1, 2009”;

6 (2) in subparagraph (A), by inserting after  
7 “Federal Regulations)” the following: “or in the  
8 final regulation, relating to such parts, published on  
9 May 29, 2007 (72 Federal Register 29748)”;

10 (3) in subparagraph (C), by adding at the end  
11 the following: “, including the proposed regulation  
12 published on May 23, 2007 (72 Federal Register  
13 28930)”.

14 (b) EXTENSION OF CERTAIN MORATORIA IN PUBLIC  
15 LAW 110–173.—Section 206 of the Medicare, Medicaid,  
16 and SCHIP Extension Act of 2007 (Public Law 110–173)  
17 is amended—

18 (1) by striking “June 30, 2008” and inserting  
19 “April 1, 2009”;

20 (2) by inserting “, including the proposed regu-  
21 lation published on August 13, 2007 (72 Federal  
22 Register 45201),” after “rehabilitation services”;  
23 and

(3) by inserting “, including the final regulation published on December 28, 2007 (72 Federal Register 73635),” after “school-based transportation”.

(c) ADDITIONAL MORATORIA.—

(1) IN GENERAL.—The Secretary of Health and Human Services may not, prior to April 1, 2009, impose (or continue in effect) any requirement, prevent the implementation of any provision, or condition the approval of any provision under any State plan under title XIX or XXI of the Social Security Act, any amendment of such a plan, or demonstration project request relating to such plan or title, on the basis of any policy or interpretation relating to a provision described in paragraph (2) or to any rule, provision, policy, or interpretation similar to such a provision.

(2) PROVISIONS DESCRIBED.—The provisions described in this paragraph are the following:

(A) PORTION OF INTERIM FINAL REGULATION RELATING TO MEDICAID TREATMENT OF OPTIONAL CASE MANAGEMENT SERVICES.—

(i) The interim final regulation relating to optional State plan case management services under the Medicaid program published on December 4, 2007 (72 Fed-

1           eral Register 68007) in its entirety, except  
2           as provided in clause (ii).

3           (ii) Clause (i) shall not apply to the  
4           portion of such regulation as relates di-  
5           rectly to implementing section  
6           1915(g)(2)(A)(ii) of the Social Security  
7           Act, as amended by section 6052 of the  
8           Deficit Reduction Act of 2005 (Public Law  
9           109–171), through the definition of case  
10          management services and targeted case  
11          management services contained in pro-  
12          posed section 440.169 of title 42, Code of  
13          Federal Regulations, but only to the extent  
14          that such portion is not more restrictive  
15          than the policies set forth in the Dear  
16          State Medicaid Director letter on case  
17          management issued on January 19, 2001  
18          (SMDL #01–013), and with respect to  
19          community transition case management,  
20          the Dear State Medicaid Director letter  
21          issued on July 25, 2000 (Olmstead Update  
22          3).

23           (B) PROPOSED REGULATION RELATING TO  
24           REDEFINITION OF MEDICAID OUTPATIENT HOS-  
25           PITAL SERVICES.—The proposed regulation re-

1       lating to clarification of outpatient clinic and  
2       hospital facility services definition and upper  
3       payment limit under the Medicaid program  
4       published on September 28, 2007 (72 Federal  
5       Register 55158) in its entirety.

6               (C) PORTION OF PROPOSED REGULATION  
7       RELATING TO MEDICAID ALLOWABLE PROVIDER  
8       TAXES.—The final regulation relating to health-  
9       care-related taxes under the Medicaid program  
10      published on February 22, 2008 (73 Federal  
11      Register 9685) in its entirety, other than the  
12      portion of such regulation as relates to the fol-  
13      lowing:

14              (i) REDUCTION IN THRESHOLD.—The  
15              reduction from 6 percent to 5.5 percent in  
16              the threshold applied under section  
17              433.68(f)(3)(i) of title 42, Code of Federal  
18              Regulations, for determining whether or  
19              not there is an indirect guarantee to hold  
20              a taxpayer harmless, as required to carry  
21              out section 1903(w)(4)(C)(ii) of the Social  
22              Security Act, as added by section 403 of  
23              the Medicare Improvement and Extension  
24              Act of 2006 (division B of Public Law  
25              109–432).

1                   (ii) CHANGE IN DEFINITION OF MAN-  
2                   AGED CARE.—The change in the definition  
3                   of managed care as proposed in the revi-  
4                   sion of section 433.56(a)(8) of title 42,  
5                   Code of Federal Regulations, as required  
6                   to carry out section 1903(w)(7)(A)(viii) of  
7                   the Social Security Act, as amended by  
8                   section 6051 of the Deficit Reduction Act  
9                   of 2005 (Public Law 109–171).

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